

SPECIAL TOWN MEETING Sept. 25, 2012-Proceedings

The meeting was called to order by the Moderator, Jay Byer at 7:00pm at the Miscoe Hill School. The Moderator reviewed the rules and procedures of the meeting. Non Residents were allowed into the meeting:

Matthew and Jonathan O'Brien, Boy Scouts
Andrew Jenrich, Children's Librarian
Michelle Sanford, Town Crier
Kenneth C. Best, Architect for Library project
Mike Gleason, Milford Daily News
Kathleen Coffey-Daniels, Former Planning Board Member
Alexander Kennedy, Boy Scout

ARTICLE 1 Voted to Passover this article.
UNANIMOUS VOICE VOTE

ARTICLE 2 Voted to transfer \$6,093.50 from Finance Committee Reserve for General Expenses (line item 131C) to Property and Casualty Insurance (Line Item 945B).
UNANIMOUS VOICE VOTE

ARTICLE 3 Voted to transfer \$1,747.85 from Finance Committee Reserve for General Expenses (line item 131C) to Worker's Compensation (Line Item 912B).
UNANIMOUS VOICE VOTE

ARTICLE 4 Voted that the town appropriate and borrow the sum of Three Hundred Sixty Thousand Dollars (\$360,000) for the purpose of purchasing the property known as St. Michael's Church at 29-31 North Ave., Mendon, MA, Parcel ID# 8-189-29-31 and authorize the Treasurer under the direction of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by General Laws Chapter 44, Section 7(3a), or any other general or special law, for a period not to exceed 20 years, provided however, that this appropriation and debt authorization shall be contingent upon passage of a Proposition 2 1/2 debt exclusion referendum question under General Laws Chapter 59, § 21C(k). This article did not get a favorable recommendation from the Finance Committee.
Hand Count
YES 113
NO 22

ARTICLE 5 Defeated a motion to Passover this article.
MAJORITY VOICE VOTE

Voted that the town appropriate and borrow the sum of One Million Seven Hundred Thousand Dollars (\$1,700,000) for the purpose of renovating the property known as St. Michael's Church at 29-31 North Ave., Mendon, MA for use as a library and/or other municipal uses and authorize the Treasurer under the direction of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by General Laws Chapter 44, Section 7(3a), or any other general or special law, for a period not to exceed 20 years, provided however, that this appropriation and debt authorization shall be contingent upon passage of a Proposition 2 1/2 debt exclusion referendum question under General Laws Chapter 59, § 21C(k). This article did not get a favorable recommendation from the Finance Committee.
HAND COUNT
YES 110
NO 28

ARTICLE 6 Voted to Amend Article 6 by inserting the following sentence after the word "regulations" in the second sentence of Section 3:
Furthermore, except to the extent exempted by M.G.L. c. 40A, s. 3, farming and agriculture in the Town of Mendon shall be subject to the Mendon Zoning By-Law and all other local by-laws and regulations.
MAJORITY VOICE VOTE

Defeated a motion to remove the word "swine" in Section 2, Definitions..."Keeping and raising of poultry, swine, cattle..."
MAJORITY VOICE VOTE

Defeated a motion to amend Section 2, Definitions..."Control of Pests, including, but not limited to, insects, weeds, predators..." by adding the word "legal" in front of Control of Pests. The introduction would then read "Legal Control of Pests, including."
UNANIMOUS VOICE VOTE

Voted to amend article 6 by **striking the third sentence in Section 3** and by substituting the following sentence: **The benefits and protections of this By-Law are intended to apply exclusively to those commercial agricultural and farming operations and activities performed by a farmer or on a farm conducted in accordance with generally accepted agricultural practices.**
HAND COUNT
YES 66
NO 31

Voted to amend the Mendon Town Bylaws by adding Chapter XXIX, Right to Farm

Bylaw with the above amendments:

MENDON RIGHT TO FARM BY-LAW

Section 1 Legislative Purpose and Intent

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Mendon restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Mendon by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

Section 2 Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

Section 3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Mendon. The above-described agricultural activities shall be subject to General Laws and state regulations.

Furthermore, except to the extent exempted by M.G.L. c. 40A, s. 3, farming and agriculture in the Town of Mendon shall be subject to the Mendon Zoning By-Law and all other local by-laws and regulations. Agricultural and such activities may occur on holidays, weekdays, and weekends by night or day and may include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities **performed by a farmer or on a farm** conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

Section 4 Disclosure

Within 30 days after this By-law becomes effective, the Agricultural Commission shall prominently post on the Town Hall notice board the following disclosure:

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by agricultural operations."

A copy of the disclosure notification shall be included in the Town's Annual Report.

Section 5 Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select

Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame. The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

Section 6 Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Mendon hereby declares the provisions of this By-law to be severable.

MAJORITY VOICE VOTE

ARTICLE 7 Voted to accept Massachusetts General Law, Chapter 41, Section 23A.
MAJORITY VOICE VOTE

ARTICLE 8 Voted to amend the source of funding from Community Preservation Budgeted Reserve Account to, from Community Preservation Open Space account.
UNANIMOUS VOICE VOTE

Voted to transfer \$2500 from the Community Preservation Open Space Account to be used for the purpose of installing a Beaver Solution device to prevent excessive blockage by the beaver dam at Inman Pond.
UNANIMOUS VOICE VOTE

ARTICLE 9 Voted to accept the street known as **Deer Hill Drive** as a public way in the Town of Mendon provided, however, the grantor provide to the Town a certificate of title and deed acceptable to the Board of Selectmen with respect to the roadway and easements.
UNANIMOUS VOICE VOTE

ARTICLE 10 Voted to transfer \$2000 from available funds to Aid to Veterans (Line Item 543C).
UNANIMOUS VOICE VOTE

ARTICLE 11 Voted to transfer \$24,754.56 from Stabilization Account to Finance Committee Reserve for General Expenses (Line Item 131C),for the purpose of paying legal fees as the result of the Adult Entertainment judgment when such becomes due. 2/3 vote needed.
UNANIMOUS VOICE VOTE

The warrant was dissolved at 9:34pm. The officer on duty was Sgt. David Kurczyk. The tellers for the meeting were Nancy Fleury and Kathryn Rich. There were 152 voters in attendance.

A true copy. Attest:

**Margaret Bonderenko
Town Clerk**

